MEMO ENDORSED

THE CITY OF NEW YORK

GEORGIA PESTANA
Corporation Counsel

LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

JOHN A. PASSIDOMO
Assistant Corporation Counsel
Phone: (212) 356-2617
Fax: (212) 356-3509
Email: jpassido@law.nyc.gov

December 10, 2021

BY ECF
Honorable Katharine H. Parker
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

      Re: <u>Dewayne Richardson v. City of New York, et al.</u>, 21-CV-5080 (PAE) (KHP)

Your Honor:

      I am an Assistant Corporation Counsel ("ACC") in the Office of Georgia Pestana, Corporation Counsel of the City of New York, and the attorney for Defendant City of New York in the above-referenced matter. Defendant writes, with consent of Plaintiff's counsel, to respectfully request 1) an extension of 45-days to answer or otherwise respond to Plaintiff's Complaint after this Office's receipt of Plaintiff's executed HIPAA release, and 2) an adjournment of the initial pretrial conference currently scheduled for December 15, 2021 at 12:00 p.m. until a time convenient to the Court after Defendant has responded to the Complaint. This is Defendant's second request for an extension of time to answer or otherwise respond to the Complaint and its second request for an adjournment of the conference.

      By way of background, Plaintiff filed the Complaint on June 8, 2021 alleging, *inter alia*, that Defendants violated his constitutional rights while Plaintiff was in Department of Correction ("DOC") custody. ECF No. 2. Specifically, Plaintiff alleges that the conditions of his confinement were unsafe, there were issues related to his COVID-19 vaccinations, he was denied access to showers, and excessive force was used against him. <u>Id.</u> On July 16, 2021, the Court requested that the City of New York and the individual DOC Defendants waive service of summons. ECF No. 7. On August 18, 2021, the City returned an executed waiver of service. ECF No. 14. On October 4, 2021, Defendant City respectfully requested a 60-day enlargement of time for Defendant to answer

or otherwise respond to Plaintiff's Complaint and for an adjournment of the initial pre-trial conference, and the Court granted this request on the same day. ECF Nos. 19, 20.

In accordance with this Office's obligations under Rule 11 of the Federal Rules of Civil Procedure, additional time is needed to investigate the allegations of the Complaint. Moreover, without a medical release from Plaintiff, this Office is unable to request plaintiff's medical records. Because the thrust of Plaintiff's claims revolve around his COVID-19 vaccination(s), in addition to his allegations of excessive force, Plaintiff's contemporary medical records are necessary, in this particular case, for Defendant to formulate their defense of this case and respond to the Complaint.

Accordingly, Defendant respectfully requests an extension of 45-days upon this Office's receipt of Plaintiff's executed HIPAA release for Defendant to answer or otherwise respond to Plaintiff's Complaint, as well as an adjournment of the initial pretrial conference currently scheduled for December 15, 2021 at 12:00 p.m. until a time convenient to the Court after Defendant has responded to the Complaint.

Thank you for your time and consideration in this matter.

Respectfully submitted,

By: /s/ John A. Passidomo
John A. Passidomo
Assistant Corporation Counsel
New York City Law Department
100 Church Street, Room 3-202
New York, New York 10007
(212) 356-2617
jpassido@law.nyc.gov

cc: **Via ECF**
Walter John Thompson
Thompson Law, P.C.
250 West 57th Street
Suite 1632
New York, NY 10107

APPLICATION GRANTED: **The Initial Case Management Conference scheduled for Wednesday, December 15, 2021 at 12:00 p.m. is hereby rescheduled to <u>Wednesday, February 2, 2022 at 10:30 a.m.</u> in courtroom 17-D, United States Courthouse, 500 Pearl Street New York, NY 10007.**

APPLICATION GRANTED

Katharine H. Parker

Hon. Katharine H. Parker, U.S.M.J.
12/13/2021